

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANTHONY M. SEIBEL; and MISSY M.
PHELPS,

Plaintiffs,

V.

CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.

C14-1973 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Defendant's motion to dismiss, docket no. 16, is GRANTED in part, DENIED in part, and STRICKEN in part as follows:

(a) With regard to Counts I through IV of the Amended Complaint, defendant's Rule 12(b)(1) motion is GRANTED, and defendant's alternative Rule 12(b)(6) motion is STRICKEN as moot. Counts I through IV of the Amended Complaint, docket no. 9, are DISMISSED with prejudice for lack of jurisdiction. See 42 U.S.C. §§ 405(h) & 1383(c)(3); Weinberger v. Salfi, 422 U.S. 749, 760-61 (1975); see also 5 U.S.C. § 701(a)(1); Mich. Ass'n of Homes & Servs. for the Aging, Inc. v. Shalala, 127 F.3d 496, 499 (6th Cir. 1997) (citing Heckler v. Ringer, 466 U.S. 602, 622 (1984)).

(b) With respect to Count V of the Amended Complaint, defendant's Rule 12(b)(1) motion is DENIED. Plaintiffs Anthony Seibel and Missy Phelps have exhausted their claims of bias on the part of Administrative Law Judge ("ALJ") Ilene Sloan, and they have received "final decisions" from defendant Carolyn W. Colvin, Acting Commissioner of the Social Security Administration.

1 (“Commissioner”), with respect to their applications for social security disability
2 insurance benefits and supplemental security income (“SSI”) payments under
3 Titles II and XVI, respectively, of the Social Security Act. The Court has
jurisdiction over plaintiffs’ claims for judicial review pursuant to 42 U.S.C.
§§ 405(g) & 1383(c)(3).

4 (c) As to Count V, defendant’s alternative Rule 12(b)(6) motion is also
5 DENIED. The Court is satisfied that plaintiffs have sufficiently pleaded a
“plausible” ground for relief. See Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570
6 (2007). Whether a class could be certified in this matter and whether plaintiffs’
remaining claims have any merit are questions for another day.

7 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of
record.

8 Dated this 21st day of August, 2015.

9 William M. McCool

10 Clerk

11 s/Karen Dews

12 Deputy Clerk